

By the Committee on Governmental Oversight and Productivity;
and Senators Forman and Geller

302-2054-00

1 A bill to be entitled
2 An act relating to the Fair Housing Act;
3 amending s. 760.29, F.S.; requiring a facility
4 or community regulated by the act to register
5 with the Florida Commission on Human Relations
6 and affirm compliance with specified
7 requirements under penalty of perjury;
8 providing for a registration fee; amending s.
9 760.31, F.S.; providing for rules; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (4) of section 760.29, Florida
15 Statutes, is amended to read:

16 760.29 Exemptions.--

17 (4)(a) Any provision of ss. 760.20-760.37 regarding
18 familial status does not apply with respect to housing for
19 older persons.

20 (b) As used in this subsection, the term "housing for
21 older persons" means housing:

22 1. Provided under any state or federal program that
23 the commission determines is specifically designed and
24 operated to assist elderly persons, as defined in the state or
25 federal program;

26 2. Intended for, and solely occupied by, persons 62
27 years of age or older; or

28 3. Intended and operated for occupancy by persons 55
29 years of age or older that meets the following requirements:

30 a. At least 80 percent of the occupied units are
31 occupied by at least one person 55 years of age or older.

1 b. The housing facility or community publishes and
2 adheres to policies and procedures that demonstrate the intent
3 required under this subparagraph. If the housing facility or
4 community meets the requirements of sub-subparagraphs a. and
5 c. and the recorded governing documents provide for an adult,
6 senior, or retirement housing facility or community and the
7 governing documents lack an amendatory procedure, prohibit
8 amendments, or restrict amendments until a specified future
9 date, then that housing facility or community shall be deemed
10 housing for older persons intended and operated for occupancy
11 by persons 55 years of age or older. If those documents
12 further provide a prohibition against residents 16 years of
13 age or younger, that provision shall be construed, for
14 purposes of the Fair Housing Act, to only apply to residents
15 18 years of age or younger, in order to conform with federal
16 law requirements. Governing documents which can be amended at
17 a future date must be amended and properly recorded within 1
18 year after that date to reflect the requirements for
19 consideration as housing for older persons, if that housing
20 facility or community intends to continue as housing for older
21 persons.

22 c. The housing facility or community complies with
23 rules made by the Secretary of the United States Department of
24 Housing and Urban Development pursuant to 24 C.F.R. part 100
25 for verification of occupancy, which rules provide for
26 verification by reliable surveys and affidavits and include
27 examples of the types of policies and procedures relevant to a
28 determination of compliance with the requirements of
29 sub-subparagraph b. Such surveys and affidavits are admissible
30 in administrative and judicial proceedings for the purposes of
31 such verification.

1 (c) Housing shall not fail to be considered housing
2 for older persons if:

3 1. A person who resides in such housing on or after
4 October 1, 1989, does not meet the age requirements of this
5 subsection, provided that any new occupant meets such age
6 requirements; or

7 2. One or more units are unoccupied, provided that any
8 unoccupied units are reserved for occupancy by persons who
9 meet the age requirements of this subsection.

10 (d) A person shall not be personally liable for
11 monetary damages for a violation of this subsection if such
12 person reasonably relied in good faith on the application of
13 the exemption under this subsection relating to housing for
14 older persons. For purposes of this paragraph, a person may
15 show good faith reliance on the application of the exemption
16 only by showing that:

17 1. The person has no actual knowledge that the
18 facility or the community is ineligible, or will become
19 ineligible, for such exemption; and

20 2. The facility or community has stated formally, in
21 writing, that the facility or community complies with the
22 requirements for such exemption.

23 (e) A facility or community, except for one meeting
24 the definition contained in subparagraph (b)1., shall register
25 with the commission and submit to the commission a sworn
26 affidavit, or other document approved by the commission,
27 stating, under penalty of perjury, that the facility or
28 community complies with the requirements of subparagraph (b)2.
29 or subparagraph (b)3. The affidavit shall be submitted on the
30 letterhead of the facility or community or in some other form
31 approved by the commission and shall be signed by the

1 president of the facility or community, under penalty of
2 perjury. This registration and documentation shall be renewed
3 biennially from the date of original filing. The information
4 in the registry shall be made available to the public, and the
5 commission shall include this information on an Internet
6 website. The commission may establish a reasonable
7 registration fee that shall be deposited into the commission's
8 trust fund to defray the administrative costs associated with
9 maintaining the registry. The registration and submission of a
10 sworn affidavit or other document approved by the commission
11 shall not substitute for proof of compliance with the
12 requirements of this subsection. Failure to register pursuant
13 to this paragraph shall not, by itself, result in the facility
14 or community losing its status as housing for older persons.
15 This shall not apply to a community governed by chapter 723.
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17 A county or municipal ordinance regarding housing for older
18 persons may not contravene the provisions of this subsection.

19 Section 2. Subsection (5) of section 760.31, Florida
20 Statutes, is amended to read:

21 760.31 Powers and duties of commission.--The
22 commission shall:

23 (5) Adopt rules necessary to implement ss.
24 760.20-760.37 and govern the proceedings of the commission in
25 accordance with chapter 120. Commission rules shall clarify
26 terms used with regard to handicapped accessibility,
27 exceptions from accessibility requirements based on terrain or
28 site characteristics, and requirements related to housing for
29 older persons. Commission rules shall specify the forms and
30 procedures to be used for the registration required by s.
31 760.29(4)(e).

1 Section 3. This act shall take effect October 1, 2000,
2 provided that a facility or community that otherwise qualifies
3 for the exemption provided in section 760.29(4), Florida
4 Statutes, shall have until February 1, 2001, to comply with
5 the requirements of this act.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SB 1326

10 Exempts from the registration requirement a facility or
11 community meeting the definition contained in s. 760.29(4)(a),
F.S.

12 Provides that s. 760.29(4)(e), F.S., does not apply to a
13 community governed by ch. 723, F.S.

14 Provides that registration does not substitute for proof of
compliance with the requirements of the subsection.

15 Provides that failure to register does not, by itself, result
16 in the facility or community losing its status as housing for
older persons.

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